UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : CR-08-076 (NGG)

v. : February 7, 2008

FRANK CALI, CHARLES CARNEGLIA, JOSEPH COROZZO, SARAH DAURIA, ROBERT EPIFANIA, VINCENT GOTTI, : Brooklyn, New York

Defendants.

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TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT
BEFORE THE HONORABLE KIYO A. MATSUMOTO
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: ROSLYNN R. MAUSKOPF, ESQ.
UNITED STATES ATTORNEY
BY: JOSEPH LIPTON,ESQ.

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Brooklyn, New York 11201

For the Defendant:
Cali — HARLAN PROBST, ESQ.
Carneglia — CURTIS FARBER, ESQ.
Gotti — SCOTT LEEMON, ESQ.
Epifania — STEVEN MAHLER, ESQ.
Dauria — BENNETT EPSTEIN, ESQ.
Corozzo — JOSEPH COROZZO, JR., ESQ.

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Proceedings recorded by electronic sound recording, transcript produced by transcription service

THE CLERK: Criminal cause for arraignment. Case number 08-CR-76, United States versus Frank Cali, Charles Carneglia, Joseph Corozzo, Sarah Dauria, Robert Epifania and Vincent Gotti.

Counsel, please state your name for the record.

MS. HORMOZI: Mitra Hormozi and Joey Lipton for the United States.

THE COURT: Good afternoon.

MS. HORMOZI: Good afternoon, your Honor.

MR. LEEMON: Good afternoon, your Honor. Scott Leemon on behalf of Vincent Gotti.

THE COURT: Good afternoon.

MR. MAHLER: Steven Mahler (ph) for Robert Epifania.

THE COURT: Good afternoon.

MR. EPSTEIN: Bennett Epstein for Sarah Dauria.

THE COURT: Alright, good afternoon.

MR. COROZZO: Good afternoon, your Honor. On behalf of Joseph Corozzo, Joseph Corozzo.

THE COURT: Good afternoon.

MR. FARBER:: Good afternoon, your Honor. Curtis Farber for Charles Carneglia.

THE COURT: Alright, good afternoon. Do any of the defendants here have any difficulty speaking and understanding English?

MR. LIPTON: No, your Honor.

THE COURT: Alright, let me then just start. All of you are here today because a grand jury has returned an --

THE CLERK: Mr. Cali's attorney is not here.

THE COURT: Oh.

THE CLERK: Who is Cali's attorney?

(Pause in proceedings)

MR. LEEMON: I can stand up for arraignment purposes, if you'd like.

THE CLERK: Sure, fine.

THE COURT: Alright. As you may know, the grand jury has returned an indictment charging you with various counts. And I'd like to find out, starting with Mr. Cali, whether he has had the opportunity to review the indictment and the charges set forth in that indictment.

DEFENDANT CALI: Yes.

THE COURT: Alright, sir. And do you understand those charges?

DEFENDANT CALI: Yes.

THE COURT: And did you review those charges with your attorney, Sir?

DEFENDANT CALI: Yes.

THE COURT: Alright. Mr. Carneglia, have you also had the opportunity to review the indictment with your counsel and do you understand the charges?

DEFENDANT CARNEGLIA: Yes.

THE COURT: Alright, Mr. Epifania?

DEFENDANT EPIFANIA: Yes, Ma'am.

THE COURT: Alright, Sir, did you also have a chance to review the indictment and do you understand those charges?

DEFENDANT EPIFANIA: Yes, Ma'am.

THE COURT: Alright. And Ms. Dauria?

DEFENDANT DAURIA: Yes.

THE COURT: Alright. You reviewed the indictment and you understand the charges, ma'am?

DEFENDANT DAURIA: Yes.

THE COURT: And Mr. Gotti? Sir, did you have a chance to review the indictment with your attorney and do you understand the charges?

DEFENDANT GOTTI: Yes.

THE COURT: Alright. Do all counsel here represent to the Court that they have in fact reviewed the indictment with their clients and are satisfied that they understand the charges?

ALL: Yes, your Honor.

THE COURT: Does everybody else waive -- Does anybody want me to read the indictment?

ALL: No, your Honor.

THE COURT: Alright. Let me start with Mr. Cali. Sir, do you wish to enter a plea at this time?

DEFENDANT CALI: Yes.

THE COURT: What is that, sir?

DEFENDANT CALI: Not guilty.

THE COURT: Alright, the Court will enter a not guilty plea for Mr. Cali.

Mr. Carneglia, Sir, would you like to enter a plea?

DEFENDANT CARNEGLIA: No, I object to the indictment.

THE COURT: Alright. So, you're not entering a plea of --

MR. FARBER: Your Honor, reserving all rights that Mr. Carneglia may have.

(Mr. Carneglia consults with his attorney)

THE COURT: Would you like to confer with him? I'm going to move to the other defendants right now so we can keep --

Mr. Corozzo, sir --

DEFENDANT COROZZO: Not guilty.

THE COURT: Alright, we'll enter a not guilty plea for Mr. Corozzo, Joseph Corozzo.

Mr. Epifania, sir?

DEFENDANT EPIFANIA: Not guilty.

THE COURT: Alright, we'll enter a not guilty plea for Mr. Epifania. Thank you.

And, Ms. Dauria?

DEFENDANT DAURIA: Not guilty.

THE COURT: We'll enter a not guilty plea for Ms. Dauria.

And, Mr. Gotti?

DEFENDANT GOTTI: Not guilty.

THE COURT: We'll enter a not guilty plea for Mr. Gotti.

Does the government have a position on bail with respect to Mr. Cali? Well, his attorney, is he here yet? He's not here yet.

THE CLERK: I don't believe his attorney is here yet, your Honor.

THE COURT: Alright, let's come back to him. What is your position with respect to bail for Mr. Joseph Corozzo, Sr.?

MS. LIPTON: Judge, the government is seeking a permanent order of detention for Mr. Corozzo.

THE COURT: Counsel, I'll hear from you.

MR. COROZZO, JR.: Your Honor, as we're not prepared to go forward at this time, we do not object to a permanent order of detention being filed today, obviously without prejudice, so that we might make the application in the future.

THE COURT: We will grant leave to Mr. Joseph Corozzo to make an application in the future. Does he have any medical needs or conditions that we need to make the government aware of at this time?

MR. COROZZO, JR.: No, your Honor. Any needs, I'll contact the MDC myself.

THE COURT: Alright, thank you. With respect to Mr. Epifania, what is the government's position?

MR. LIPTON: I believe the defendant is going to consent to a temporary order of detention and we want to schedule a bail hearing next week.

THE COURT: Alright, we have a bail hearing scheduled for February 12th at 11:00 am. Does Mr. Epifania have any medical needs or conditions, medications?

MR. MAHLER: I don't believe so.

THE COURT: Alright, thank you, sir.

Ms. Dauria. What is your position on the question of bail or detention for Ms. Dauria?

MR. EPSTEIN: Two hundred thousand PRB unsecured.

MR. LIPTON: That's correct, your Honor. I believe counsel himself had come to an agreement of $200,000 unsecured bond.

THE COURT: Alright. And are the suretors here today?

MR. EPSTEIN: No, your Honor. It's February 15th. She'll be released today on her own signature and two financial responsible persons will sign by February 15th. That's a week from tomorrow.

THE COURT: Alright.

MR. EPSTEIN: And also permission to travel to Erie, Pennsylvania, in addition to the Southern and Eastern Districts of New York.

THE COURT: Just Erie? Is that it?

MR. EPSTEIN: No, District of Pennsylvania. I think in order to get to Erie, you practically have to go through the whole state.

THE COURT: Alright, alright. Let me just review the conditions. Then Ms. Dauria will be released on a $200,000 bond signed by two financially responsible suretors no later than February 15th. Her travel will be restricted to the Eastern and Southern Districts of New York across the State of Pennsylvania.

Do you have a passport, ma'am?

MR. EPSTEIN: Your Honor, I understand the government is already in possession of her passport.

THE COURT: Alright. While this matter is pending, you may not apply for another passport.

Do you understand?

DEFENDANT DAURIA: Yes.

THE COURT: In addition, ma'am, you will be under the supervision of Pretrial Services. You must report to them as directed. They will be authorized to visit you at your place of residence and business without prior notice.

In addition, if you fail to come to court as directed, a warrant will be issued for your arrest and you will be held in jail without bail until the time of your trial.

Failure to appear may result in charges of bail jumping, which can be punished by up to five to ten years in prison even if you were never convicted of underlying charges in this case. If you are convicted, your sentence for bail jumping will be consecutive to any sentence that you may receive if you are convicted of the charges in this case.

You're subject to increased punishment if you commit any crime while out on bail. And if you threaten any witness or attempt to influence the testimony of anyone who may be a witness in this case, you may be subject to punishment for that as well.

Is there any restriction on her associations that the government would propose? Codefendants?

MR. LIPTON: Yes, Judge. And I think we're going to be doing this throughout. The government is going to ask for a no contact order with any known members and associates of organized crime.

THE COURT: Alright. You will have no contact with any known members or associates or organized crime and none of the other defendants except in the presence of counsel.

Do you understand?

DEFENDANT DAURIA: Yes, however, one of the defendants is -- I share yard space with them in Staten Island.

THE COURT: Well, when you say yard space, what does that mean?

DEFENDANT DAURIA: Yard and office space.

THE COURT: Who's that?

DEFENDANT DAURIA: Mario Cassarino.

THE COURT: Alright. Well, Mister -- You cannot have any contact. Do not discuss anything with him, do not speak to him, do not have any conversations with him. No direct or indirect contact, email, voice mail, telephone through an intermediary in writing or orally.

Do you understand?

DEFENDANT DAURIA: Yes.

THE COURT: Alright. In addition, ma'am, if you attempt to influence the testimony of anyone who may be a witness, you may be subject to punishment for that as well.You must keep your attorney and Pretrial Services apprised of your whereabouts. You must appear in court as directed. Do not commit any crimes while you're out on bail. And do not attempt to influence the testimony of anyone who may be a witness or have any contact with any co-defendant or known member or associate of organized crime.

Do you understand those conditions, ma'am?

DEFENDANT DAURIA: Yes.

THE COURT: Alright. Will you be able to live up to those conditions?

DEFENDANT DAURIA: Yes.

THE COURT: Alright. And the two suretors will be advised that if you violate any of these conditions, judgment will be entered jointly and separate against you and your suretors in the amount of $200,000.

Do you understand?

DEFENDANT DAURIA: Yes.

THE COURT: Alright. Alright, let's here with respect to Mr. Gotti. What is the government's position on detention or bail?

MS. HORMOZI: Your Honor, the government is going to move for a permanent order of detention against Mr. Gotti.

MR. LEEMON: Your Honor, at this time we consent to a permanent order with leave to make an appropriate bail application at the appropriate time.

THE COURT: Alright. The Court will enter a permanent order and grant leave to Mr. Gotti to make a bail application.

Does Mr. Gotti have any medical needs or conditions?

MR. LEEMON: He does, your Honor.

THE COURT: Alright.

MR. LEEMON: He has acid reflux as well as glaucoma, and he's on medication. I'd ask that that please be marked.

THE COURT: Alright. If you would write the name of the medication on the piece of paper.

MR. LEEMON: I understand that the government or Pretrial has one of the medications in a refrigerator, and I have the other two right now.

THE COURT: I'm not sure that the marshals will allow him to bring that medication with him.

MR. LEEMON: That's alright, I'll write it down.

THE COURT: But if you write it down we'll make sure that he gets them.

MR. LEEMON: Okay, thank you.

THE COURT: Alright, getting back to Mr. Cali, did we have a position on Mr. Cali's detention or bail? I believe his -- Are you here? What is your name, sir?

MR. PROBST: Harlan Probst (ph).

THE COURT: I'm sorry?
MR. PROBST: Harlan Probst.
THE COURT: Alright.
MR. LIPTON: The government seeks a permanent order of detention against Mr. Cali.
THE COURT: Alright. Did you have a bail application to make at this time, sir?
MR. PROBST: We'd like to schedule a hearing for --
THE COURT: We scheduled a hearing for February 14^{th} at 11:00. Is that suitable?
MR. PROBST: Yes, it is.
THE COURT: Alright. Does Mr. Cali have any medical needs, medications or other conditions that we should be aware of?
MR. PROBST: No, your Honor.
THE COURT: Alright, thank you.
I think Mr. Carneglia and his attorney have had an opportunity to confer at this time?
MR. FARBER: Yes, your Honor.
THE COURT: Alright. Did he wish to enter a plea?
MR. FARBER: Yes, your Honor.
THE COURT: And what is that?
MR. FARBER: He enters a plea of not guilty.
THE COURT: Alright, the Court will enter a plea

of not guilty for Mr. Carneglia. And does the government have a position on bail or detention for Mr. Carneglia?

MR. LIPTON: Yes, Judge. The government seeks a permanent order of detention against Mr. Carneglia.

THE COURT: Do you have an application, sir?

MR. FARBER: We consent to the order of detention without prejudice.

THE COURT: Alright, the Court will enter a permanent order of detention without prejudice for Mr. Carneglia to return and present a bail package.

Does Mr. Carneglia have any medical conditions, medications or other issues that we should be aware of?

MR. FARBER: Yes, your Honor. He has asthma and bronchitis and is dependent on the use of a ventilator.

THE COURT: Alright, if you could write the name of his medication, I'll sign an order asking the MDC to examine him and provide treatment.

Did Mr. Cali enter a plea yet? He may not have. He did. Alright, not guilty. Alright, thank you.

Is there anything else I need to address at this time? Do we have a date?

THE CLERK: Yes, your Honor. Judge Garaufis has asked that the initial status conference for the first half of the defendants scheduled for February 27^{th} at 11:00. And for the second half, February 28^{th} at 11:00.

THE COURT: Alright.

MR. CORROZZO JR.: Your Honor, on behalf of Mr. Corrozzo, we would object to the exclusion of time. And we don't think it's necessary. We will be moving the district court for a speedy trial. We just wanted to make it clear that that would run as of the time of the arraignment.

THE COURT: Alright. Anyone else? Does anyone else wish to join the exclusion of time?

(Pause in proceedings)

THE COURT: Alright. It seems that the other defendants are going to object to the exclusion of time, their speedy trial rights.

MR. LIPTON: Judge, do you mind if we just get that on the record? The government is asking to exclude time and I guess if they don't object, it's up to your Honor. Time is excluded, but if we could just get it on the record as to who is objecting.

THE COURT: Alright. Let's start at the beginning. Mr. Cali, does he object to the exclusion of time?

MR. PROBST: No.

THE COURT: Pardon me?

MR. PROBST: No, your Honor.

THE COURT: He does not object. Alright. Does Mr. Carneglia object to the exclusion of time?

MR. FARBER: My client would like to object, your Honor.

THE COURT: Objects. Okay, Mr. Carneglia objects. Does Mr. Corrozzo --

MR. CORROZZO JR.: He is objecting.

THE COURT: Is objecting, yes, alright. And, Ms. Dauria, do you object, ma'am?

MR. EPSTEIN: She does not, your Honor.

THE COURT: Does not. Alright.

Mr. Epifania?

MR. MAHLER: No, not at this time, your Honor.

THE COURT: Alright. What about Mr. Vincent Gotti?

MR. LEEMON: We do not consent, your Honor.

THE COURT: Alright, so you object, also. Alright. Let me ask the government of their grounds.

MS. HORMOZI: Just to clarify, the government is going to move to designate this case complex. So, if the Court grants it complex for one defendant, it would be granted for all defendants.

As to the basis, there are hundreds of hours if not more of tape recordings and thousands of documents that we will have to turn over in discovery.

MR. CORROZZO JR.: Your Honor, however, the government has chosen to indict 55 people -- approximately

55 people on one indictment. And I think they're doing that so that when they declare it complex maybe against one person, it carries over to everyone.

The government is fully aware of the Second Circuit law that will not allow for a trial of 55 people. And I don't know if this case is complex to each and every defendant in the case.

I am very familiar with the charges against my client and I know that it's not complex. And I can try this case within the 70 days prescribed by statute. So, I'm objecting. I request that this Court not declare the case complex until it's further briefed by both sides.

THE COURT: Alright, well, you have a date before Judge Garaufis later this month. Correct?

MS. HORMOZI: Yes, your Honor.

THE COURT: Alright. So, I think at this time, then, until there's briefing submitted on the issue of complexity, since Mr. Corrozzo has asked for leave to do that, I'm not prepared to make a decision without hearing from Mr. Corrozzo.

MR. CORROZZO: Thank you.

THE COURT: Alright.

MR. CORROZZO: Your Honor, and lastly, I would just like to address potential orders of separation. It seems that the government is moving to detain numerous people in this case, at least the five people here.

From experience, most of the people go to the same holding facility; most likely the Metropolitan Detention Center. If the government moves for orders of separation from the codefendants, that would require the Metropolitan Detention Center to keep a great number of these defendants in the hole because there's just not enough units to separate each and every one of them.

I've consulted with all counsel that are present before your Honor whose clients are being detained today and none of them wish for orders of separation. Every defendant here would specifically request that no orders of separation are put in.

I know the Court's not going to do it. I'm just concerned about the government doing it unilaterally without cause.

MR. LIPTON: Your Honor, to the extent the government's going to make any request to the Bureau of Prisons for a separation order for purposes of collusion, for purposes of safety, for purposes of anything else, all ends up to the Bureau of Prisons.

At this time, we have not made such a request. And should we make a request, defense counsel's perfectly able to make that appropriate objection to BOP if they wish.

THE COURT: Alright, well, it's without prejudice for you to state your client's position to BOP on that issue. Alright, Sir?

MR. CORROZZO: Yes, your Honor.

THE COURT: Alright. Is there anything else I need to address with any of these defendants?

MR. EPSTEIN: Your Honor, my client signed her bond, does she need to swear to it at this point?

THE COURT: No. I did want to get those medical requests back for the defendants so that we can make sure -- Alright. Is there anything else at this time?

ALL: No, your Honor.

THE COURT: Thank you.

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I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

ELIZABETH BARRON February 19, 2008